

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BRUCE DERRICK CALHOUN,

Plaintiff,

vs.

SAN DIEGO COUNTY, et al.

Defendants.

CIVIL CASE NO. 11-CV-969 MMA
(BGS)

**ORDER DISMISSING COMPLAINT
WITHOUT LEAVE TO AMEND;
DENYING MOTION TO PROCEED
IN FORMA PAUPERIS; AND
DENYING AS MOOT REQUEST
FOR APPOINTMENT OF COUNSEL**

[Doc. Nos. 2, 3]

Plaintiff Bruce Derrick Calhoun, proceeding *pro se*, has filed a complaint [Doc. No. 1], along with a Motion to Proceed in Forma Pauperis (“IFP”) [Doc. No. 2] and a Request for Appointment Counsel [Doc. No. 3]. In his affidavit supporting his motion to proceed IFP, Plaintiff attests that he receives \$1,074 per month in social security. Although a party need not be completely destitute to proceed IFP, a party must still show he or she cannot pay the filing fee and still provide the “necessities of life” for his or her family. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948). Plaintiff has failed to satisfy that requirement, and therefore is not excused from paying the \$350 filing fee. Pursuant to 28 U.S.C. § 1915(a), the Court **DENIES** Plaintiff’s IFP motion.

Notwithstanding payment of any filing fee or portion thereof, a complaint filed by any person seeking to proceed IFP is subject to *sua sponte* review and dismissal by the Court. The Court is obligated to review a complaint and must dismiss the action if it determines the complaint is frivolous, malicious, or fails to state a claim for relief. *See* 28 U.S.C. § 1915(e)(2). After careful review, the Court finds that Plaintiff’s complaint is frivolous and void of any plausible claims for relief. The Court also notes Plaintiff’s allegations are similar to those set forth in previously filed (and dismissed) complaints in this Court. *See, e.g. Calhoun v. San Diego County, et al.*, USDC,

Southern District of California, Case No. 11cv425 JAH.

1 Because "it is absolutely clear that the deficiencies of the complaint could not be cured by
2 amendment," the Court **DISMISSES** the complaint **without leave to amend**. *Franklin v. Murphy*,
3 245 F.2d 1221, 1228 n.9 (9th Cir. 1984). As such, the Court **DENIES AS MOOT** Plaintiff's
4 Request for Appointment of Counsel.

5 **IT IS SO ORDERED.**

6 DATED: May 10, 2011



Hon. Michael M. Anello
United States District Judge